

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : INDORE

Original Application No.602 of 1998

Jabalpur, this the 23rd day of May, 2003

Hon^{ble} Mr. R.K. Upadhyaya - Administrative Member
 Hon^{ble} Mr. A.K. Bhatnagar - Judicial Member

M.L. Kaushal, Retired Station Manager,
 Shiv Shakti Nagar, Rituraj Nagar, Near Rly.
 Gate, Sanjit Road, Mandasor

- Applicant

(By Advocate- Shri A.N. Bhatt)

Versus

Union of India & others, Western Railway - Respondents

(By Advocate- Shri Y.I. Mehta, Sr. Advocate with
 Shri H.Y. Mehta)

O R D E R

By R.K. Upadhyaya, Administrative Member -

This application was filed seeking a direction to the respondents to release all the retiral dues with interest.

2. It is claimed by the applicant that he retired on 30.11.1995 as Station Manager, on attaining the age of superannuation. It is further stated by the applicant that while functioning as Station Manager at Mandasaur he was served with major penalty charge-sheet on 12.11.1995, i.e., only a few days before his retirement. The claim of the applicant is that charge-sheet for major penalty should have been finalised within 150 days as per headquarters letter dated 3.10.1997 (Annexure-A-6) by which Railway Board's circular letter dated 18.9.1997 was circulated. It is further claimed by the applicant that because of pendency of this disciplinary proceeding, his retiral benefits were held up and paid almost five years later on from the date of retirement. The learned counsel of the applicant further stated that the disciplinary proceedings initiated were dropped by order dated 2.2.2000 and the gratuity has been paid on 19.5.2000; commutation of pension has been paid on 22.5.2000; and leave encashment had already been paid on 13.9.1996. Further it is stated that the respondents have

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not paid interest. In this connection, he placed reliance on a decision of this Tribunal in the case of Manoharlal Verma Vs. Union of India and others, O.A.No.814 of 1997 decided on 28.9.2000 wherein it has been held that if the disciplinary proceedings were finalised before the retirement of the delinquent employee, the disciplinary authority could have imposed any major or minor penalty specified in the rules. After retirement, the President could order cut in pension and/or withholding of gratuity for a specified period. In view of the fact that no such order was passed by the President, the retired employee was entitled to interest on the gratuity for the period reckoned from three months after his retirement till the date of such payment. Learned counsel of the applicant also invited attention to another decision of this Tribunal in the case of Hargovind Singh Vs. Union of India & another, O.A.No.759 of 1999 decided on 13.2.2001 wherein this Tribunal had directed that the respondents should pay interest to the retired employee as the non-availability of service sheet was not attributable to the applicant.

3. The respondents in their reply have stated that the disciplinary proceedings were pending on the date of retirement which were concluded only on 2.2.2000 vide order Annexure-R/A wherein the Joint Director Establishment (D&A), Railway Board had conveyed that "the disciplinary proceedings pending against Shri Kaushal (applicant) may be dropped after communicating to him the 'Government's Displeasure' for his failure to comply with his superior's orders". The claim of the respondents is that the applicant has not been totally exonerated from the charges levelled against him but one of the charge against him has been proved and, therefore, he had been communicated the Government's displeasure. It is, therefore, urged by the learned counsel of the respondents that the applicant is not entitled for any interest.

4. We have heard the learned counsel of the parties

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and have perused the material available on record.

5. When this OA was filed, the applicant had not been paid full retirement dues in view of the pendency of the charge-sheet for major penalty issued on 12.11.1995, i.e., before the date of his retirement on 30.11.1995. We are not in agreement with the claim of the applicant that enquiry proceedings should have been completed within 150 days as per the model time table prescribed by the Railway Board by their memorandum dated 18.9.1997. This is only a desirability and decision in a particular case depends on the facts of that case. However, it has been observed that the applicant has been paid gratuity as well as commuted value of pension in May, 2000. The leave encashment amount was already paid on 13.9.1996. On the facts of this case, we are of the view that the applicant should have been paid interest on delayed payment of gratuity as well as leave encashment. It is clarified that no interest is payable to the applicant on commuted value of pension on the ground that the applicant received full amount of pension before commutation. Since the applicant retired on 30.11.1995, he may be paid simple interest at the rate of 6% (six percent only) with effect from 1.3.1996 to the date of payment of gratuity on 19.5.2000 and leave encashment on 13.9.1996. We order accordingly. The respondents are directed to ensure payment within a period of three months from the date of receipt of a copy of this order.

6. In view of our direction in the preceding paragraph, this O.A. is disposed of without any order as to costs.

(A.K. Bhathnagar)
Judicial Member

(R.K. Upadhyaya)
Administrative Member

mkv.

पृष्ठकल सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि वाटो दिहल-

(1) सचिव, उच्च न्यायालय, जबलपुर

(2) आदेशक श्री/श्री/श्री/.....के कारुसल

(3) प्रत्यक्षी श्री/श्री/श्री/.....के कारुसल

(4) कोषपाल, कोषाल, जबलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु

उप-सचिव

23/5/03

T. S. Mehta
26/5/03

AN T. Mehta, Adm. Exd
Y. P. Mehta, Adm. Exd